

REMARKS

This is intended as a full and complete response to the Office Action dated February 21, 2008, having an extended period for response set to expire on June 23, 2008. Please reconsider the claims pending in the application for reasons discussed below.

Claims 1-3, 5-7, 9-14 and 18-22 are pending in the application. Claims 1-3, 5-7 and 9 remain pending following entry of this response. Claims 10-14 and 18-22 have been cancelled.

Further, Applicants are not conceding in this application that those amended (or canceled) claims are not patentable over the art cited by the Examiner, as the present claim amendments and cancellations are only for facilitating expeditious prosecution of the claimed subject matter. Applicants respectfully reserve the right to pursue these (pre-amended or cancelled claims) and other claims in one or more continuations and/or divisional patent applications.

Claim Rejections - 35 U.S.C. § 102

Claims 10 and 18-22 are rejected under 35 U.S.C. 102(b) as being anticipated by *Goiffon et al.* (U.S. Patent No. 6,453,312, hereinafter, "*Goiffon '312*").

Claims 10 and 18-22 have been cancelled.

Claim Rejections - 35 U.S.C. § 103

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Goiffon et al.* (US 6,226,792, hereinafter, "*Goiffon '792*"), in view of *Goiffon '312*, and further in view of *Singh* (U.S. Publication 2003/0204759).

Applicants respectfully traverse this rejection.

The Examiner bears the initial burden of establishing a prima facie case of obviousness. See MPEP § 2141. Establishing a prima facie case of obviousness begins with first resolving the factual inquiries of *Graham v. John Deere Co.* 383 U.S. 1 (1966). The factual inquiries are as follows:

- (A) determining the scope and content of the prior art;
- (B) ascertaining the differences between the claimed invention and the prior art;
- (C) resolving the level of ordinary skill in the art; and
- (D) considering any objective indicia of nonobviousness.

Once the *Graham* factual inquiries are resolved, the Examiner must determine whether the claimed invention would have been obvious to one of ordinary skill in the art.

Respectfully, Applicants submit that the Examiner has not properly characterized the teachings of the references and/or the claims at issue. Accordingly, a prima facie case of obviousness has not been established.

For example, the prior art references even when combined do not teach or suggest “obtaining one or more parameters ... indicative of a date or time of day,” “obtaining, based on the one or more parameters and the base search term, one or more expanded search terms,” and “modifying the query to contain one or more conditions based on the one or more expanded search terms,” as recited in claim 1.

In rejecting claim 1, the Examiner concedes *Goiffon* ‘312 and *Goiffon* ‘792 do not teach the “one or more parameters comprise at least one parameter indicative of a date or time of day,” as recited in claim 1 (Office Action, page 6). Instead, the Examiner refers to yet a third case, citing *Singh* as teaching system utilization depending on the time of day or the day of the week (*Singh*, paragraph [0051]).

.... For example, during daytime the system loads may fluctuate more often because different working customers request different services. Consequently, the sampling period during this time is shorter than that at nighttime or weekends where system utilization is more stable. Similarly,

the number of samples is higher during weekdays than during nighttime and weekends.

While this cited section teaches that the fluctuation of a system's utilization may depend on the time of day or the day of the week, there is absolutely no suggestion to modify a query in any manner based on date or time of day. In contrast, claim 1 recites modifying a query to include expanded search terms that are obtained based on parameters "indicative of a date or time of day."

Accordingly, Applicants submit that the Examiner failed to properly ascertain the differences between the claimed invention and the prior art. Consequently, claim 1 and its dependents are allowable, and withdrawal of this rejection is respectfully requested.

Claims 5-7, 9, 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Goiffon '312* as applied to claims 10, 18-22 above and in view of *Singh*.

With respect to claims 11-14, Applicants have cancelled these claims.

With respect to claims 5-7 and 9, Applicants respectfully traverse these rejections. Claim 5 and its dependents contain similar limitations as described above with reference to claim 1 that are not taught in the cited references.

Accordingly, Applicants submit that claim 5 and its dependents are also allowable, and withdrawal of the rejection is respectfully requested.

Conclusion

Having addressed all issues set out in the office action, Applicants respectfully submit that the claims are in condition for allowance and respectfully request that the claims be allowed.

Respectfully submitted, and
S-signed pursuant to 37 CFR 1.4,

/Randol W. Read, Reg. No. 43,876/

Randol W. Read
Registration No. 43,876
PATTERSON & SHERIDAN, L.L.P.
3040 Post Oak Blvd. Suite 1500
Houston, TX 77056
Telephone: (713) 623-4844
Facsimile: (713) 623-4846
Attorney for Applicants